

AMENDED IN ASSEMBLY APRIL 30, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 727

Introduced by Assembly Member Stone

February 21, 2013

An act to add Section ~~6703.5~~ 6707 to the Public Resources Code, relating to public trust lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 727, as amended, Stone. Public trust lands: dredging: notice and leases.

Existing law authorizes the State Lands Commission to enter into an exchange, with any person or private entity, of filled or reclaimed tidelands and submerged lands or beds of navigable waterways, or interests in those lands, if the commission finds that specified conditions are met.

This bill would require that a ~~grantee of public trust lands or a person or entity making a submittal of a lease, contract, or other instrument to the commission for dredging on granted public trust lands, upon which any right to minerals on those lands is reserved by the state, to notify the commission, in writing, no later than 90 days prior to the time dredging is commenced, if the grantee or other person or entity making a submittal intends to conduct dredging operations on those lands. The bill would require the commission, upon receipt of that written notice of intent to conduct dredging operations, to determine whether the dredging will require that the grantee or a person or entity making a submittal of a lease, contract, or other instrument to the commission~~

~~for dredging on granted public trust lands enter into a lease with the commission, and to notify the grantee or person or other entity making a submittal for dredging, in writing, if a lease will be required local trustee of tide and submerged lands or an applicant for dredging on granted tide and submerged lands that intends to commence dredging on granted public trust lands, upon which any right to minerals on those lands is reserved by the state, to notify the commission, in writing, no later than 120 days prior to the time dredging is commenced, and would require that the written notice contain specified information.~~

The bill would specify that if that written notice is provided to the commission, a local trustee or applicant for dredging is not required to enter into a lease for the dredging if prescribed conditions are met. The bill would authorize the commission, if any dredging on granted tide and submerged lands wherein minerals are reserved to the state does not meet those prescribed conditions, to require a lease from the commission for that dredging. The bill would require the commission, if it determines that a lease is required, to provide the grantee or applicant for dredging with written notification of that determination within 30 days after the commission receives notification of the proposed dredging. The bill would require that any revenue that is earned by a local trustee from the dredging of granted lands be held or spent in a manner consistent with the trustee's existing obligations under the public trust and the specific terms of its grant of lands. The bill would provide that the notification requirement make the above requirements applicable only applies to dredging operations that are commenced on or after January 1, 2014. The bill would require that any dredging on public trust lands be carried out pursuant to a lease entered into by a grantee of public trust lands or a person or entity making a submittal for dredging on those public trust lands and the commission, except as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *It is the intent of the Legislature to streamline the*
- 2 *process of dredging on granted tide and submerged lands wherein*
- 3 *mineral deposits are reserved to the state when consistent with the*
- 4 *preservation and promotion of tideland trust activities, and to*
- 5 *preserve tideland trust revenue within the corpus of the trust. To*

1 *this end, it is also the intent of the Legislature that dredging on*
2 *granted tide and submerged lands wherein mineral deposits are*
3 *reserved to the state does not require a dredging lease from the*
4 *State Lands Commission when the dredging is conducted strictly*
5 *for the purposes of maintaining or enhancing maritime or*
6 *water-dependent commerce, navigation, fishing, or other public*
7 *trust activities required under the granting statute.*

8 *SEC. 2. The Legislature finds and declares all of the following:*

9 *(a) As part of its fiduciary duty, a local trustee of granted tide*
10 *and submerged lands is required to take reasonable steps under*
11 *the circumstances to take and keep control of, and preserve*
12 *property for, public trust purposes on behalf of the state for the*
13 *benefit of all the people of California.*

14 *(b) All local trustees of tide and submerged lands that were*
15 *granted for the establishment, improvement, or conduct of a harbor*
16 *and for the construction, maintenance, and operation of the public*
17 *trust lands in a manner that is necessary or convenient for the*
18 *promotion and accommodation of commerce and navigation*
19 *should, from time to time, deepen and maintain depths of their*
20 *berths, harbors, and navigable waterways within their grants to*
21 *further the trust purposes for which the local trustee holds tide*
22 *and submerged lands.*

23 *(c) Dredging activity on granted tide and submerged lands*
24 *typically requires multiple approvals and permits from various*
25 *local, state, and federal regulators, and must comply with the*
26 *environmental requirements prescribed under the California*
27 *Environmental Quality Act (Division 13 (commencing with Section*
28 *21000) of the Public Resources Code).*

29 *(d) When the rights to mineral deposits are reserved to the state*
30 *in any grant of tide and submerged lands, the state should reserve*
31 *the right to require that any dredging on those granted lands be*
32 *carried out pursuant to a lease entered into by a local trustee and*
33 *the State Lands Commission.*

34 *SEC. 3. Section 6707 is added to the Public Resources Code,*
35 *to read:*

36 *6707. (a) The Legislature finds and declares that to promote*
37 *and accommodate public trust uses, including commerce,*
38 *navigation, and fisheries, proper management of granted public*
39 *trust lands may require the local trustee to conduct dredging of*
40 *navigational channels and vessel berths on granted lands,*

1 including on those granted lands in which the state reserves
2 mineral interests, and that those dredging activities are consistent
3 with the public trust.

4 (b) A local trustee of tide and submerged lands or an applicant
5 for dredging on granted tide and submerged lands that intends to
6 commence dredging on granted public trust lands, upon which
7 any right to minerals on those lands is reserved by the state, shall
8 notify the commission, in writing, no later than 120 days prior to
9 the time dredging is commenced.

10 The notice shall contain all of the following information:

11 (1) A description of the dredging to be conducted on those lands,
12 including a map and land description showing the area and project
13 site.

14 (2) A description of the amount of material to be dredged,
15 disposal amount, location, and means of disposal, if available.

16 (3) The time and manner in which dredging is to occur.

17 (4) The relevant permits, authorizations, and approvals that
18 exist or must be obtained to complete dredging, or, if applicable,
19 demonstration of compliance with a dredged materials
20 management office plan that is administered by the United States
21 Army Corps of Engineers.

22 (5) A declaration that the dredging is necessary for the proper
23 management of the grant consistent with the public trust for
24 commerce, navigation, and fisheries, or a statement of why the
25 dredging is necessary to be undertaken for other purposes and a
26 declaration that the dredging is consistent with the statutory grant.

27 (6) A statement with supporting documents that explains whether
28 the trustee anticipates receipt of any revenues from the materials
29 to be dredged, and, if so, in what amounts.

30 (c) After submission of the written notice required by this
31 section, a local trustee or applicant for dredging is not required
32 to enter into a lease for the dredging if all of the following
33 conditions are met:

34 (1) The dredging is maintenance dredging consistent with the
35 proper management of the granted lands.

36 (2) The dredged material is not sold or used for a private benefit.

37 (3) The dredged material is disposed of at an approved onshore
38 or offshore disposal site.

39 (d) The commission may require a lease for any dredging on
40 granted tide and submerged lands wherein the right to minerals

1 *is reserved to the state if the proposed dredging does not meet the*
2 *conditions set forth in subdivision (c). The commission may*
3 *delegate the authority to determine whether a lease is necessary*
4 *to its executive officer. If the commission determines that a lease*
5 *is required, the commission shall provide the grantee or applicant*
6 *for dredging with written notification of that determination within*
7 *30 days after the commission receives notification of the proposed*
8 *dredging. All applicable reimbursement costs shall be submitted*
9 *with the application for a lease, if a lease is necessary.*

10 *(e) This section shall apply only to dredging operations that*
11 *are commenced on or after January 1, 2014.*

12 *(f) This section does not exempt a local trustee of tide and*
13 *submerged lands or other person or entity dredging on those lands*
14 *from any permit or other approval necessary to carry out dredging*
15 *operations that may be required by another local, state, or federal*
16 *law.*

17 *(g) (1) Any revenue that is earned by a local trustee from the*
18 *dredging of granted lands shall be held or spent in a manner*
19 *consistent with the trustee's existing obligations under the public*
20 *trust and the specific terms of its grant of lands.*

21 *(2) If a local trustee receives any revenue from the dredged*
22 *materials not otherwise disclosed in the notice required by this*
23 *section, the local trustee shall immediately notify the commission*
24 *in writing. The commission may require the grantee to pay a*
25 *reasonable royalty and enter into a lease for the dredging. If a*
26 *grantee fails to notify the commission, the commission may require*
27 *the local trustee to remit all revenues to the state.*

28 *(h) Nothing in this section shall be construed to limit the*
29 *authority of the commission to enter into a lease, at its discretion,*
30 *for dredging activity on granted tide and submerged lands wherein*
31 *the right to minerals is reserved to the state.*

32 ~~SECTION 1. Section 6703.5 is added to the Public Resources~~
33 ~~Code, to read:~~

34 ~~6703.5. (a) (1) Notwithstanding any other law, a grantee of~~
35 ~~public trust lands or a person or entity making a submittal of a~~
36 ~~lease, contract, or other instrument to the commission for dredging~~
37 ~~on granted public trust lands, upon which any right to minerals on~~
38 ~~those lands is reserved by the state, shall notify the commission,~~
39 ~~in writing, no later than 90 days prior to the time dredging is~~
40 ~~commenced, if the grantee or person or other entity making a~~

1 ~~submittal intends to conduct dredging operations on those lands.~~

2 ~~The notice shall contain the following information:~~

3 ~~(A) A description of the dredging to be conducted on those~~
4 ~~lands, including a map showing the general area and project site.~~

5 ~~(B) A description of the amount of material to be dredged,~~
6 ~~disposal amount, location and means of disposal, location of the~~
7 ~~dredging activity, a sediment characterization report, and an~~
8 ~~explanation of the purpose of the dredging.~~

9 ~~(2) Upon receipt of the written notice required by paragraph~~
10 ~~(1), the commission shall determine whether the dredging will~~
11 ~~require that the grantee or other person or entity making a submittal~~
12 ~~of a lease, contract, or other instrument to the commission for~~
13 ~~dredging on granted public trust lands enter into a lease with the~~
14 ~~commission, and shall notify the grantee or other person or entity~~
15 ~~making a submittal for dredging, in writing, if a lease will be~~
16 ~~required.~~

17 ~~(b) This section shall only apply to dredging operations that are~~
18 ~~commenced on or after January 1, 2014.~~

19 ~~(c) This section does not exempt a grantee of public trust lands~~
20 ~~or other person or entity making a submittal for dredging on those~~
21 ~~lands from any permit or other approval necessary to carry out~~
22 ~~dredging operations that may be required by another local, state,~~
23 ~~or federal law.~~

24 ~~(d) Any dredging on public trust lands shall be carried out~~
25 ~~pursuant to a lease entered into by a grantee of public lands or a~~
26 ~~person or entity making a submittal for dredging on granted public~~
27 ~~trust lands and the commission. However, a lease shall not be~~
28 ~~required for maintenance dredging on granted public trust lands~~
29 ~~where the materials from the dredging are disposed of at a United~~
30 ~~States Environmental Protection Agency or United States Corps~~
31 ~~of Engineers-approved onshore or offshore disposal site.~~